

AUGUST 25, 2004

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, August 25, 2004, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
RHONDA G. HENDERSON, Director of Planning
JENNIFER M. HOOVER, Director of Public Works
FRANKLIN P. O'BYRNE, Director of Information Systems
WILLIAM L. VAUGHN, Director of Community Development
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER

PLEDGE OF ALLEGIANCE AND INVOCATION.

Chairman Ahrend called the meeting to order at 6:00 p.m.

Community Development Director Vaughn led the Pledge of Allegiance, and Chairman Ahrend gave the Invocation, asking for a moment of silence in memory of Elise Symons, the mother of Chief Robert A. Symons, and in memory of Robert Stewart, a long time member of the Harrisonburg-Rockingham Chamber of Commerce.

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APPROVAL OF MINUTES.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; after correcting an account number on page 9 of the draft minutes, the Board approved the Minutes of the Regular Meeting held on August 11, 2004.

Supervisor Floyd asked that the minutes show that the property which was the subject of S04-44, special use permit request of Port Republic Cemetery Company (approved at the last meeting), was not sold to the church but was donated by Mrs. Virginia Wonderly.

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**DELEGATE R. STEVEN LANDES PRESENTATION
TO WILLIAM G. O'BRIEN.**

Delegate R. Steven Landes presented General Assembly Resolution HJR222 to William G. O'Brien, former County Administrator, commending his service to the Commonwealth.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

In response to a question from Supervisor Cuevas, Mr. Komara advised that the price of asphalt and paving had increased significantly since last year.

Supervisor Breeden advised that a recent monitoring by the Sheriff's Department of the speed on Rock Pike indicated the limit of 55 MPH should probably be lowered.

In response to a question from Supervisor Floyd, Mr. Komara said a right turn lane would not be put in at the intersection of Port Republic Road and Route 689, traveling west on Port Republic Road, and he also noted that the traffic pattern presently at that location is a temporary measure until the project is complete.

Supervisor Floyd noted that a house is being built on Shen Lake Drive which appears to have a driveway, with a "hump," which will be located rather close to the intersection with Port Republic Road. Mr. Komara will investigate to see if his Department has approved the driveway.

Supervisor Floyd asked about the progress on the project for Route 668 and Mr. Komara advised that it would begin next summer. He noted that he would get in touch with the residents in the area and bring them up to date.

Mr. Floyd said a drainage ditch on Shen Lake Road needs to be opened up all the way to the golf course; Mr. Komara will make sure it is functioning properly.

Chairman Ahrend said he had received a telephone message concerning vision problems for those traveling on the road going out of Singers Glen on Route 771. Mr. Komara pointed out that the houses are very close to the road in that area and, rather than affect the houses, it might be better to look into the possibility of a new location for the road.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated August 20, 2004, including information on VDOT Six-Year Plan hearings, air monitoring program, Boys & Girls Club, proposed corporate training and development center, Trackside community project, and MPO actions.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board appropriated up to \$25,000 from the contingency to the Harrisonburg-Rockingham Boys and Girls Club to match a contribution made by the City of Harrisonburg, which will match a \$50,000 grant from the National Boys and Girls Club. These monies will be used to fund a gang-prevention initiative to be defined by the local Boys and Girls Club in cooperation with the Sheriff's Department, the Harrisonburg Police Department, the Commonwealth Attorney's Office and the Juvenile Court. A plan for the initiative will be brought back to the Board for review.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated August 20, 2004, including information on a lease for the container site in the Town of Grottoes and potential legislation for public hearing.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved a lease with the Town of Grottoes for the sum of \$1.00 per year, for a container site in the Town, and authorized the County Administrator to sign the lease. The lease is for an initial ten (10)

year term with the right to renew for an additional ten (10) years.

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DEPUTY COUNTY ADMINISTRATOR’S STAFF REPORT.

The Board received and reviewed Mr. King’s staff report dated August 18, 2004, including the following schedule for the Technological and Industrial Park.

- Receive Approvals (VDOT, VDH, DEQ, etc.) - ~~Week of July 26~~ Pending
- Advertisement - Saturday, August 28, 2004
- Pre-bid conference - Monday, September 20, 2004
- Bid Opening - Wednesday, October 6, 2004
- Bid Award - (Board of Supervisors Meeting) - Wednesday, October 13, 2004
- Notice of Award - Thursday, October 14, 2004
- Notice to Proceed - Wednesday, October 20, 2004
- Substantial Completion - Monday, June 20, 2005
- Final Completion - Wednesday, July 20, 2005

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PUBLIC WORKS DIRECTOR’S STAFF REPORT.

The Board received and reviewed Ms. Hoover’s staff report dated August 19, 2004, including information concerning progress on the sewer project for Route 11 North; Lilly Gardens; Countryside water system; Penn Laird Drive and Water Tower Road sewer; Lakewood/Massanetta Springs pump station, Spotswood High School waterline extension, Wal-Mart water and sewer project, Three Springs back-up power, Grottoes Container Site, Water/Sewer specifications, and Posi-shell for use at the landfill.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND – AYE; BREEDEN – AYE; CUEVAS – AYE; FLOYD – AYE; KYGER – AYE; as recommended by the Public Works Committee, the Board approved establishing an additional water treatment plant operator position to provide required staffing to meet the treatment plant schedule resulting from the expected increase in water usage by Morningstar and appropriated \$35,000, as follows, for this purpose. Funding will be provided from the additional water fees collected from Morningstar.

401-04403-000-1100-000	Full-time Salaries	\$24,000
401-04403-000-2100-000	FICA	2,000
401-04403-000-2200-000	Retirement	3,000
401-04403-000-2300-000	Health insurance	6,000
TOTAL		\$35,000

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FINANCE COMMITTEE.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board:

- Approved a supplemental appropriation in the amount of \$20,002 for a 2004 Chevrolet Blazer for the new building inspector in the Community Development Department. These costs will be absorbed by the Fund Reserve.

Supplemental Appropriation: \$20,002 GL Code: 001-03400-000-8005-000
(Vehicles)

- Approved a supplemental appropriation in the amount of \$6,250 for an additional voting machine for the new Cross Keys precinct, as requested by the Registrar, from the contingency account.

Supplemental Appropriation: \$6,250 GL Code: 001-01301-000-8001-000
(Machinery and Equipment)

- As requested by the Director of Community Development, acting as the County's representative of the Central Shenandoah Regional Bicycle Plan Committee, approved a supplemental appropriation in the amount of \$2,305, which represents the County's share of the project costing \$45,000, funded by a grant from VDOT, Harrisonburg Rockingham Metropolitan Planning Organization, Mile Post Zero Cycling Club, and the 10 jurisdictions in the Planning District. Funding is through the contingency account.
- Approved a carryover of unencumbered FY 2003-2004 funds in the amount of \$24,508, which is the balance of unencumbered Federal/State grant funding re-allocated to the current fiscal year in accordance with the grant policies and guidelines, as requested by the Fire and Rescue Chief.

\$6,500 GL Code: 001-03201-700-5504-000 (Professional Development.)

\$1,500 GL Code: 001-03201-700-6012-000 (Books & Subscriptions)

\$9,008 GL Code: 001-03201-700-6065-000 (Minor Equipment)

\$7,500 GL Code: 001-03201-700-8001-000 (Machinery & Equipment)

- Approved a carryover of unencumbered FY 2003-2004 funds in the amount of \$100,000, which is the balance of unencumbered Federal grant funding re-allocated to the current fiscal year in accordance with the grant policies and guidelines, as requested by the Fire and Rescue Chief.

Carry Over Appropriation: \$100,000 GL Code: 001-03201-610-6065-000
(Minor Equipment)

- Approved a carryover of unencumbered FY 2003-2004 funds in the amount of \$9,563, as requested by the Sheriff, for radio equipment ordered in the previous fiscal year which

has not been delivered and needs to be ordered from a different vendor.

\$2,751 GL Code: 001-03102-000-6065-000 (Minor Equipment) Sheriff

\$6,812 GL Code: 001-03302-000-6065-000 (Minor Equipment) Jail

- Approved a carryover of unencumbered FY 2003-2004 funds in the amount of \$28,000 for modular furniture for 11 workstations for the District Court building renovation, which was ordered in the previous fiscal year but not delivered until this month.

Carry Over Appropriation: \$28,000 GL Code: 101-09401-000-8317-000
(JDR Renovations)

- Approved a carryover of unencumbered FY 2003-2004 funds in the amount of \$23,286, as requested by the Director of Information Systems, for file servers and computer updates which were ordered in the previous fiscal year but not filled until FY 2004-2005.

Carry Over Appropriation: \$23,286

\$15,836 GL Code: 101-09401-000-8335-000 (JDR Renovations)

\$ 6,850 GL Code: 001-02106-000-6014-000 (Other Operating) Clerk

\$ 600 GL Code: 101-09401-000-8300-000 (JDR Renovations)

- Approved a carryover of unencumbered FY 2003-2004 funds in the amount of \$5,372 for renovations to the Convention and Visitors Bureau.

Carry Over Appropriation: \$5,372 GL Code: 001-09103-000-5654-000
(Convention and Visitors Bureau)

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated August 20, 2004, including information concerning Planning Commission activities, the McGaheysville Area Study, priority projects underway, upcoming requests, and tabled requests.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board appointed William G. O'Brien to the Planning Commission for a four-year term expiring on August 31, 2008.

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FIRE AND RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Symons' staff report dated August 19, 2004, including information concerning grants.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board awarded a contract for 234 UHF Motorola Minitor IV pagers and programming software for the Fire and Rescue Department to Motorola, Inc., the only bidder, in the amount of \$100,101.50, with funds to come from a grant received from the Department of Justice, Domestic Preparedness Equipment Program.

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COMMITTEE REPORTS.

The Board heard committee reports from Board members and staff.

PUBLIC WORK COMMITTEE.

In regard to the renovations to the District Courts Building, Mr. Paxton reported that it may be possible to move the Court Services Department to the first floor and the Juvenile Court offices to the second floor so that they are on the same floor as the courts with which they work.

CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 6:50 to 7:05 p.m. to discuss contract negotiations with the City of Harrisonburg as set forth by Virginia Code Section 2.2-3771(A)(7).

At 7:05 p.m., Chairman Ahrend called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X04-09
SECOND: SUPERVISOR CUEVAS MEETING DATE: AUGUST 25, 2004

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that

such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

Dottie L. Bowen, Deputy Clerk

Chairman Ahrend called the regular session back to order at 7:06 p.m.

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PUBLIC HEARING - REZONING REQUEST.

At 7:07 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the following rezoning application. Ms. Henderson reviewed the details of the request.

RZ03-10 Diversified Properties, LLC, 1910 Erickson Avenue, Suite 1, Harrisonburg, to rezone 9.64 acres from A2 (General Agricultural) to R3 Conditional (General Residential with Conditions) on a portion of tax parcel 108 (6) 1 and located on the west side of Pear Street (City) approximately 400 feet south of South High Street (Route 42) in Election District #4. The Comprehensive Plan designates this area as Community Residential. R3 allows 4.3 dwelling units per acre.

Dick Blackwell, Blackwell Engineering, advised that part of the property was in the City of Harrisonburg. He noted that the process for rezoning was started 13 months ago, and the City did a major water study to make sure there was enough water supply. He noted that the City had given its approval to the project.

No opposition was expressed.

Chairman Ahrend closed the public hearing and called the meeting back to order at 7:14 p.m.

Supervisor Kyger said he thought it would be appropriate to table the request until the County has completed its discussions with the City concerning the availability of public utilities to such sites. He moved to table RZ03-10 Diversified Properties, LLC, 1910 Erickson Avenue, Suite 1, Harrisonburg, to rezone 9.64 acres from A2 (General Agricultural) to R3 Conditional (General Residential with Conditions) on a portion of tax parcel 108 (6) 1 and located on the west side of Pear Street (City) approximately 400 feet south of South High Street (Route 42) in Election District #4.

Supervisor Cuevas seconded the motion, which carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

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PUBLIC HEARING TABLED ON PROPOSED AMENDMENT TO ROCKINGHAM COUNTY CODE, CHAPTER 11, SECTION 17, TO REGULATE USE OF CERTAIN MOTORCYCLES WITHIN 500' OF ANY RESIDENTIAL DISTRICT.

Supervisor Kyger moved that the proposed ordinance be tabled. He pointed out that the intent of the ordinance was not to regulate or forbid any motorcycle, which is deemed legal by the Commonwealth of Virginia. He advised that the ordinance was intended to regulate the vehicles that are considered to be illegal under state law and which cause disturbance in residential neighborhoods. He included in his motion that a committee be established to investigate this matter and make a recommendation to the Board, with the committee members to be: County Attorney Chris Brown, Deputy County Administrator Stephen King, James Crawford, Terry Slaubaugh, Bill Jones, Sheldon Early, and Greg Kellam.

Supervisor Cuevas seconded the motion, which carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

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PUBLIC HEARING - AMENDMENTS TO ROCKINGHAM COUNTY CODE.

**CHAPTER 2, SECTION 2-6.1, TO REVISE FEE FOR PASSING
A BAD CHECK.**

**CHAPTER 7, SECTION 7-67 TO REVISE THE FEES CHARGED
FOR COLLECTING DELINQUENT TAXES.**

At 7:22 p.m., Chairman Ahrend declared the meeting open for a public hearing on proposed amendments to the Rockingham County Code: Chapter 2, Section 2-6.1, to revise the fee for passing a bad check, and Chapter 7, Section 7-67, to provide for the imposition upon persons chargeable with delinquent taxes or other delinquent charges owed to Rockingham County certain fees to cover administrative costs and attorney's fees or collection fees incurred in connection with such delinquent taxes or other charges

Mr. Brown reviewed the proposed amendments.

There were no requests to speak on these matters.

Chairman Ahrend closed the public hearing and called the meeting back to order at 7:25 p.m.

On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following amendments to the Rockingham County Code.

Sec. 2-6.1. Fee for bad checks.

There shall be a fee of \$35.00 due from any person or entity uttering, publishing or passing any check or draft for payment of Rockingham County taxes or any other sums due Rockingham County which are subsequently returned for insufficient funds or because there is no account or the account has been closed or which is referred to maker.

Sec. 7-67. Payment of administrative costs, etc.

There is hereby imposed upon each person chargeable with delinquent taxes or other delinquent charges owed to Rockingham County, fees to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest, and shall not

exceed \$30 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Virginia Code § 58.1-3919 or its successor statute but prior to the taking of any judgment with respect to such delinquent taxes or charges, and \$35 for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be \$150 or 25 percent of the cost, whichever is less; however, in no event shall the fee be less than \$25.

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Virginia Code § 58.1-3980 or its successor statute, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

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INFORMATION ITEMS.

The Board received the following Information Item from the County Administrator:

- a. Water Report to the State Health Department for July 2004.

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 7:27 p.m.

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Chairman

